IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1258 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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VINUBHAI KASHIBHAI PATEL - Petitioner(s)
Versus
NEW SHOROOK MILLS - Respondent(s)

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Appearance :
Shri Anil C. Thakore for Petitioner(s).
Shri K.B. Naik for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/08/2007

ORAL JUDGMENT

The petitioner, who was working as a Weaver with the respondent, New Shorock Mills, Nadiad, filed T. Application No.11 of

1990 with a submission that he was unceremoniously removed from the services. The respondent-Industry appeared after notice and took the defence that as no work was left, the Looms Section was closed, no weaving activities were going on, the workman could not be continued in service, nor he could be directed to be reinstated.

2. After recording the evidence and hearing the parties, the learned Labour Court, Nadiad allowed the reference in part directing the respondents to pay 50% of back-wages, but, refused reinstatement. Being aggrieved by the said award, the petitioner-workman filed an appeal, being (IC) No.2-3/1999, before the learned Industrial Court. The Industrial Court, after reappreciating everything, came to the conclusion that the appeal did not merit. It, accordingly, dismissed the appeal. The workman is now before this Court.

3. After hearing the parties and on going through the records and findings recorded by the two Courts below, I must immediately record that the petitioner was working as a Weaver, the Looms Section has been closed, the weaving activities have come to a grinding halt and no work is left for the weaver. The respondents even in their statement had stated before the learned Labour Court that they were not in a position to provide any alternative work to the workman. If these are the correct findings, then, reinstatement of the petitioner would be an

impossibility because after reinstatement of the petitioner, the respondents would not be in a position to give him any work.

4. In the opinion of this Court, the learned Court below was justified in refusing reinstatement and granting 50% back-wages. The petition is dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**